

State of Alabama
Unified Judicial System

Form CR-9 Rev. 3/95

PLEA OF NOT GUILTY AND WAIVER OF
ARRAIGNMENT

Case Number

CC-02-186-188

IN THE CIRCUIT COURT OF RUSSELL COUNTY ALABAMA
(Circuit, District, or Municipal) (Name of County or Municipality)STATE OF ALABAMA v. JERRY E. WHITLEY, Defendant

Comes now, the defendant in the above-styled matter, and to the offense charged enters a plea of

- ☒ Not Guilty
☐ Not Guilty by Reason of Mental Disease or Defect
☐ Not Guilty and Not Guilty by Reason of Mental Disease or Defect

Defendant acknowledges receipt of the copy of the charge against him/her and further waives the right to have an arraignment at which the defendant is present in person, or at which the defendant is represented by an attorney.

But, the defendant specifically and expressly reserves the right upon the filing hereof to hereafter, but before trial or before such date as may be set by the court, to interpose any defenses, objections, or motions which the defendant had the right as a matter of law or rule to interpose in this cause, prior to the filing hereof.

Defendant's date of birth is 9/20/65 Defendant's age is 36

The defendant is not eligible for consideration by the court for youthful offender status as provided by law.

3/5/2002
Date
3/5/02
Date

Defendant

Attorney for Defendant

This is to certify that I am the attorney for the defendant in this matter, and that I have fully explained this form and all matters set forth herein, and pertaining hereto, to the defendant. I further state to the court that I have explained to the defendant his right to be arraigned in person and his right to have me represent him at arraignment. I further certify to the court that my client hereby knowingly, voluntarily, and intelligently waives these rights after a full and complete explanation of each and every one of them to him/her by me. BOTH MYSELF AND THE DEFENDANT UNDERSTAND THAT I AM RESPONSIBLE FOR ASCERTAINING WHAT DATE, IF ANY, HAS BEEN SET BY THE COURT FOR THE MAKING OR FILING OF ANY DEFENSES, OBJECTIONS, OR MOTIONS. I FURTHER UNDERSTAND THAT I AM RESPONSIBLE FOR NOTIFYING MY CLIENT OF THE DATE HIS/HER CASE IS SET FOR TRIAL, AND THAT I HAVE ADVISED AND INFORMED HIM/HER THAT IN THE EVENT HE/SHE FAILS TO APPEAR ON THE DATE HIS/HER CASE IS SET FOR TRIAL, ALL APPROPRIATE LEGAL ACTION WILL BE TAKEN BY THE COURT AGAINST THE DEFENDANT AND HIS/HER BOND. I further certify to the court that I have advised my client that he/she is responsible for obtaining the date his/her case is set for trial in this matter and that in the event he/she fails to appear on the date his/her case is set for trial all appropriate legal action will be taken by the court against the defendant and his/her bond, and I hereby certify that the defendant knows that he/she is personally responsible for obtaining the date his/her case is set for trial and for being present in court on that date.

2/2/02
Date

Attorney for Defendant Signature

LAUREL W. FARRAR
Printed or Typed Attorney's Name

I certify that I served a copy of the foregoing plea and waiver of arraignment on the Prosecutor by mailing/delivering a copy of the same to him/her on:

3/5/02
Date

P.O. Drawer 2500, Phenix City, AL 36868
Address

This is to certify that my attorney has explained each and every matter and right set forth in this form and I have completely and fully read and do so understand each and every matter set forth in this form. I further state to the court that I do not wish to be personally present at an arraignment in this case and that I do not want to have an attorney represent me at an arraignment and WITH FULL KNOWLEDGE OF EACH OF THESE RIGHTS, I HEREBY EXPRESSLY WAIVE SUCH RIGHTS. I further state to the court that I have been informed of the charge against me and have received a copy of the charge.

3/5/2002
Date

Defendant Signature

Filed in office this date 3/5/02

Clerk

Kathy Coultter By JB5

000033

STATE OF ALABAMA)	IN THE CIRCUIT COURT OF
)	
PLAINTIFF,)	RUSSELL COUNTY, ALABAMA.
)	
VS.)	CASE NO.: CC 02-186,187,
)	188
JERRY E. WHITLEY)	
)	
DEFENDANT.)	

ORDER

The defendant having filed a motion for reduction of bond and the court having considered same, it is ORDERED that the motion to reduce bond is denied.

DONE this the 6th day of March, 2002.



JUDGE, CIRCUIT COURT

FILED IN OFFICE
2002 MAR -6 PM 3:01
CIRCUIT COURT
RUSSELL CO., AL

IN THE COURT OF CRIMINAL APPEALS OF ALABAMA

JERRY E. WHITLEY,
Petitioner,

vs.

STATE OF ALABAMA and THOMAS F.
BOSWELL, Sheriff of Russell County, Alabama,
Respondents.

CASE NO. _____

RUSSELL COUNTY

CIRCUIT COURT

CASE NO. CC-02-186, 187, 188

FILED IN OFFICE
MAR 13 AM 11:07
CLERK OF DIST. COURT
RUSSELL CO., AL

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner petitions this Court to issue a writ of *habeas corpus* requiring Thomas F. Boswell, Sheriff of Russell County, Alabama, to bring petitioner before this Honorable Court to show just cause as to why petitioner's bond should not be reduced, and as cause therefor, states as follows:

1. This petition for a writ of *habeas corpus* is made on behalf of Jerry E. Whitley, by and through his attorney, Laurel W. Farrar.

2. Petitioner is imprisoned and restrained of his liberty in the Russell County Jail in Phenix City, Alabama, by the Sheriff on felony charges, *to-wit*: Possession of methamphetamine, resisting arrest and trafficking in methamphetamine, pursuant to indictments issued on January 16, 2002, copies of which are attached hereto.

3. Petitioner is restrained of his liberty on said felony charges with bails in the amounts of \$250,000.00 for the charge of Trafficking Methamphetamine, \$20,000.00 for the charge of Possession of a Controlled Substance, and \$1,000.00 for the misdemeanor charge of Resisting Arrest, for a total of \$271,000.00. Said amounts were set by the Honorable George Greene, Russell County Circuit Court Judge.

FILED IN OFFICE
MAR 13 AM 11:07
CLERK OF DIST. COURT
RUSSELL CO., AL

Page 1

Bond reduced to
60,000 on Trafficking Charge
10,000 on Possession of
Controlled Substance
1,000 Resisting arrest

000034

IN THE COURT OF CRIMINAL APPEALS OF ALABAMA

JERRY E. WHITLEY,
Petitioner,

vs.

STATE OF ALABAMA and THOMAS F.
BOSWELL, Sheriff of Russell County, Alabama,
Respondents.

) CASE NO. _____
)
)
) RUSSELL COUNTY
) CIRCUIT COURT
) CASE NO. CC-02-186, 187, 188

FILED IN OFFICE
MAR 13 AM 11:07
RUSSELL CO., AL

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner petitions this Court to issue a writ of *habeas corpus* requiring Thomas F. Boswell, Sheriff of Russell County, Alabama, to bring petitioner before this Honorable Court to show just cause as to why petitioner's bond should not be reduced, and as cause therefor, states as follows:

1. This petition for a writ of *habeas corpus* is made on behalf of Jerry E. Whitley, by and through his attorney, Laurel W. Farrar.

2. Petitioner is imprisoned and restrained of his liberty in the Russell County Jail in Phenix City, Alabama, by the Sheriff on felony charges, *to-wit*: Possession of methamphetamine, resisting arrest and trafficking in methamphetamine, pursuant to indictments issued on January 16, 2002, copies of which are attached hereto.

3. Petitioner is restrained of his liberty on said felony charges with bails in the amounts of \$250,000.00 for the charge of Trafficking Methamphetamine, \$20,000.00 for the charge of Possession of a Controlled Substance, and \$1,000.00 for the misdemeanor charge of Resisting Arrest, for a total of \$271,000.00. Said amounts were set by the Honorable George Greene, Russell County Circuit Court Judge.

FILED IN OFFICE
MAR 13 AM 11:07

Bond reduced to
60,000 on Trafficking Charge
10,000 on Possession of
controlled substance
1,000 Resisting arrest

4. On or about March 4, 2002, the undersigned attorney submitted to the Circuit Court a Motion for Reduction of Bond requesting that petitioner's bond be reduced for the reason that the bond as set was excessive in violation of the constitutional rights of petitioner as set forth in the Eighth and Fourteenth Amendments to the United States Constitution and in violation of the constitutional rights of petitioner as set forth in Article I, Section XVI of the Alabama Constitution, and said motion was denied on March 6, 2002. Copies of said motion and order are attached hereto.

5. The present bond amount is contrary to the provisions of Section 15-13-2, Code of Alabama, as amended, which recognizes the allowance of bail as a matter of right prior to conviction.

6. The present bond amount is excessive to such a degree that it effectively denies petitioner the right to bail prior to conviction.

7. The present bond amount greatly and unreasonably exceeds the recommended range of bail as provided under Rule 7.2 of the Alabama Rules of Criminal Procedure.

WHEREFORE, petitioner prays:

- a. That this Honorable Court grant a writ of *habeas corpus*, and after reviewing all of the evidence and argument of counsel;
- b. That this Honorable Court set a bond that is reasonable and not excessive, all within the guidelines dictated by the Constitutions of Alabama and the United States; and
- c. Grant such other and further relief as may be deemed just in the premises.

EZELL & CHANCEY, LLP

By: 

Laurel W. Farrar

Attorneys for Petitioner

P. O. Drawer 2500

Phenix City, AL 36868-2500

(334) 297-2400

Attorney Code FAR-036

H. W. "Bucky" McMILLAN
Presiding Judge
SUE BELL COBB
PAMELA W. BASCHAB
GREG SHAW
A. KELLI WISE
Judges

Lane W. Mann
Clerk
Wanda K. Ivey
Assistant Clerk
(334) 242-4590
FAX (334) 242-4689

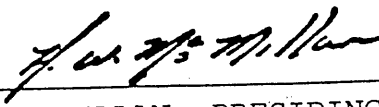
ORDER

CR-01-1243

Ex parte Jerry E. Whitley (In re: State of Alabama vs. Jerry E. Whitley) (Russell Circuit Court: CC02-186, 187, & 188).

Pursuant to the provisions of Rule 21(b), Alabama Rules of Appellate Procedure, the respondent is hereby granted fourteen (14) days to respond to the allegations contained in this petition for writ of habeas corpus.

Done this the 18th day of March, 2002.


H.W. "Bucky" McMILLAN, PRESIDING JUDGE

CCA/wki

cc: Honorable George R. Greene, Circuit Judge
Honorable Kathy S. Coulter, Circuit Clerk
Honorable Tommy Boswell, Sheriff
Honorable Bill Pryor, Attorney General
Honorable Laurel Wheeling Farrar, Attorney, Petitioner
Honorable Kenneth Davis, District Attorney
Office of Attorney General

000028

TO: HON. T. MY BOSWELL, SHERIFF
FROM: CLERK'S OFFICE (By JODY)
DATE: 3/28/02
RE: STATE OF ALABAMA VS. Jerry Eugene Whitley
CASE NO.(S): CC-02-186, 187
OFFENSE(S): Traff. Muth + Poss. Contr Subst.
Bonds: \$ 60,000⁰⁰ \$ 10,000⁰⁰

Please be advised that bond in the above-styled case(s) has been
reset at \$ _____ by the authority of Judge Greene.

COURT DATE

April 9, 02 at 10:00 am - Docket call
April 23, 02 at 9:00 am - trial

JUDICIAL BUILDING, 300 DEER AVE
P.O. BOX 301555
MONTGOMERY, AL 36130-1555

000009

H. W. "Bucky" McMILLAN
Presiding Judge
SUE BELL COBB
PAMELA W. BASCHAB
GREG SHAW
A. KELLI WISE
Judges

Lane W. Mann
Clerk
Wanda K. Ivey
Assistant Clerk
(334) 242-4590
FAX (334) 242-4689

ORDER

CR-01-1243

Ex parte Jerry E. Whitley (In re: State of Alabama vs. Jerry E. Whitley) (Russell Circuit Court: CC02-186, 187, & 188).

Upon consideration of the above referenced Writ of Habeas Corpus, the Court of Criminal Appeals ORDERS that said petition be and the same is hereby dismissed.

McMillan, P.J., and Cobb, Baschab, Shaw, and Wise, JJ.,
concur.

Done this the 10th day of April, 2002.


H.W. "Bucky" McMILLAN, PRESIDING JUDGE

CCA/wki

cc: Honorable George R. Greene, Circuit Judge
Honorable Kathy S. Coulter, Circuit Clerk
Honorable Tommy Boswell, Sheriff
Honorable Bill Pryor, Attorney General
Honorable Elizabeth Ray Butler, Asst. Atty. Gen., Respondent
Honorable Laurel Wheeling Farrar, Attorney, Petitioner
Honorable Kenneth Davis, District Attorney
Office of Attorney General

CONSOLIDATED BOND

(District Court, Grand Jury, Circuit Court)

☒ STATE OF ALABAMA

Case Number

STATE OF ALABAMA

In the 186 Court of

Russell County

I, (Defendant) Jerry Eugene Whitley, as principal, and
we, AAA Bonding Co, as sureties, agree to pay the
State of Alabama \$ 60,000.00 unless the above named defendant appears before the District

Court of said County on (Date) 5-13-02 at (Time) 10:00 or at the
next session of Circuit Court of said County, or in the event of transfer, in the district or circuit court of the county of
transfer, there to await the action by the grand jury and from session to session thereafter until discharged by law to

answer to the charge of Manufacturing Controlled Substance or any other charge.
We hereby severally certify that we have property over and above all debts and liabilities to the amount of the above
bond. We waive the benefit of all laws exempting property from levy and sale under execution or other process for the
collection of debt, by the Constitution and Laws of the State of Alabama, and we especially waive our rights to claim
exempt our wages or salary, that we have under the laws of Alabama.

It is agreed and understood that this is a continuing bond which shall remain in full force and effect until such
time as the undersigned are duly exonerated.

Signature of Defendant

Address (Print)

City

State

Zip

Signature of Surety

Address (Print)

City

State

Zip

Signature of Surety

Address (Print)

City

State

Zip

Signature of Surety

Address (Print)

City

State

Zip

Date

Approved by

Title

DEFENDANT'S INFORMATION

Date of Birth 9-20-65 Social Security Number 259 17 7161 Sex Male

Driver's License Number _____ State _____ Race White

Telephone - Residence 706 320-9752 Telephone - Work _____

☐ Appearance Bond - Property

☐ Appearance Bond - Recognizance

☒ Appearance Bond - Cash

000041

\$ 10,000.00
BOND AMOUNT

ORIGINAL
POWER OF ATTORNEY
AAA BONDING CO.
LaFayette, Alabama

No 19436

KNOW ALL BY THESE PRESENTS, THAT THE AAA BONDING CO., A COMPANY DULY ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF ALABAMA HAS CONSTITUTED AND APPOINTED, AND DOES HEREBY CONSTITUTE AND APPOINT,

AGENT Claude R. Rouse

ITS TRUE AND LAWFUL ATTORNEY-IN-FACT, WITH, FULL POWER AND AUTHORITY TO SIGN THE COMPANY'S NAME AND DELIVER ON ITS BEHALF AS SURETY, ANY AND ALL OBLIGATIONS AS HEREIN PROVIDED, AND THE EXECUTION OF SUCH OBLIGATIONS IN PURSUANCE OF THESE PRESENTS SHALL BE AS BINDING UPON THE COMPANY AS FULLY AND TO ALL INTENTS AND PURPOSES AS IF DONE BY THE REGULARLY ELECTED OFFICERS OF THE SAID COMPANY AT ITS HOME OFFICE IN THEIR PROPER PERSON; AND THE SAID COMPANY HEREBY RATIFIES AND CONFIRMS ALL AND WHATSOEVER ITS SAID ATTORNEY-IN-FACT MAY LAWFULLY DO AND PERFORM IN THE PREMISES BY VIRTUE OF THESE PRESENTS.

THIS POWER OF ATTORNEY IS VOID IF ALTERED OR ERASED. THE OBLIGATION OF THE COMPANY SHALL NOT EXCEED THE SUM OF TWO HUNDRED & FIFTY THOUSAND (\$250,000.000) DOLLARS AND MAY BE EXECUTED FOR RECOGNIZANCE OF BAIL BONDS ONLY, BUT INCLUDING PEACE BOND.

DATE 4-16-02 BOND AMOUNT \$ 10,000.00
(RELEASED FROM JAIL)

OFFENSE NOT A CT 1st COURT DIST CITY PC

DATE TO APPEAR IN COURT 5-13-02

DEFENDANT James Eugene Whittley

ADDRESS 150 Reynolds Fortson Ga C. L. Hinkle
GENERAL MGR.

AGENT Claude R. Rouse DATE 4-16-02



(SEAL)

SEPARATE POWER-OF-ATTORNEY MUST BE ATTACHED TO EACH BOND AND REMAIN A PERMANENT PART OF THE COURT'S RECORD IN ORDER FOR AAA BONDING CO., TO BE LIABLE. THIS POWER DOES NOT AUTHORIZE EXECUTION OF BONDS OF NE EXEAT OR ANY GUARANTEE FOR FAILURE TO PROVIDE PAYMENTS OF ALIMONY SUPPORT OF WAGE LAW CLAIMS.

WHITE-RECEIPT-Client
BOTTOM-Jail

YELLOW-Office

PINK-Remains in Book

000014

STATE OF ALABAMA

VS.

CAYLENE WHITE

JERRY WHITLEY

WAYNE MEADOWS

*
*
*
*
*
*
*
*
*

IN THE CIRCUIT COURT OF

RUSSELL COUNTY, ALABAMA

CASE NO. CC-02-110,111,112

CASE NO. CC-02-186,187,188

CASE NO CC-02-179,180,181

MOTION FOR JOINDER OF DEFENDANTS FOR TRIAL


The State moves the Court for an order that the above Defendants be tried together, upon the ground that the alleged offenses charged against the Defendants in the indictment in each of said actions could have been joined as a single indictment under Rule 13 of the Alabama Rules of Criminal Procedure.

Proceedings thereafter shall be the same as if the prosecution initially were under a single indictment/information/ complaint.

FILED IN OFFICE

2002 MAY 23 AM 9:52

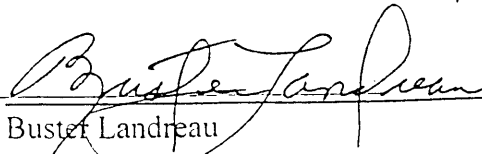
CIRCUIT COURT
RUSSELL COUNTY, AL


BUSTER LANDREAU
CHIEF DEPUTY DISTRICT ATTORNEY
26TH JUDICIAL CIRCUIT
LAN 034

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Motion upon the Hon. Joel Collins, Attorney for Defendant Caylene White, and upon the Hon. Jeremy Armstrong, Attorney for Defendant Wayne Meadows and upon the Hon. Laurel Farrar, Attorney for Defendant Jerry Whitley by placing a copy of the same in a receptacle reserved in their names in the Office of the Circuit Court of Russell County, Alabama.

Done this 23rd Day of MAY, 2002.


Buster Landreau

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

vs.

CAYLENE WHITE,
JERRY E. WHITLEY,
WAYNE MEADOWS,
Defendants.

)
)
)
)
)
) Cases No. CC-02-110, 111, 112
) Cases No. CC-02-186, 187, 188
) Cases No. CC-02-179, 180, 181
)

OBJECTION TO CONSOLIDATION

Comes now defendant JERRY E. WHITLEY, by and through his attorney, and objects to the consolidation for purpose of trial of the stated cases.

This objection is filed in response to the Motion for Joinder of Defendants for Trial filed by the State on May 23, 2002.

EZELL & CHANCEY, LLP

By: 

Laurel W. Farrar

Attorneys for Defendant Jerry E. Whitley

1200 8th Avenue

P. O. Drawer 2500

Phenix City, AL 36868-2500

(334) 297-2400

Attorney Code FAR-036

FILED IN OFFICE
2002 MAY 24 PM 3:58
CIRCUIT COURT
RUSSELL CO., AL

CERTIFICATE OF SERVICE

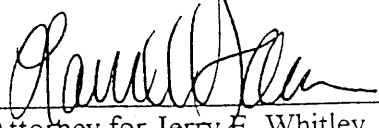
I hereby certify that I am attorney for defendant Jerry E. Whitley and that I have served a copy of the within and foregoing objection upon:

District Attorney of Russell County, Alabama

Hon. Joel Collins
Attorney for Defendant Caylene White

Hon. Jerry Armstrong
Attorney for Defendant Wayne Meadows

by placing same in their respective receptacles located in the Russell County Courthouse in Phenix City, Alabama, this 24th day of May, 2002.



Attorney for Jerry E. Whitley

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

vs.

JERRY E. WHITLEY,
Defendant.CRIMINAL CASE NUMBER
CC-02-186-188**MOTION TO SUPPRESS ARREST AND EVIDENCE
AND SEARCH WARRANT**

The defendant in the above-named case, by and through his attorney, moves this Honorable Court to suppress any and all evidence obtained through the illegal search, seizure and arrest of the defendant and any and all statements made in relation thereto, and to suppress any and all evidence obtained by and through the execution of the illegally-obtained search warrant. The defendant shows that the issuance of the warrant, any affidavit upon which the issuance was based, the execution of the warrant, the return to the issuing Magistrate by the executing officer of the warrant, and the seizure under the warrant were illegal and violated his rights under the Constitution of these United States and of the sovereign State of Alabama, and any and all evidence obtained as a result thereof should be, and the defendant demands that it be, suppressed by this Honorable Court and ruled inadmissible in and for any trial on the charges pending against the defendant or any future charges that may arise out of the illegal searches and seizures.

As grounds for this motion, the defendant assigns the following separately and severally:

1. The search, seizure and arrest were illegal because there was no authority to arrest.
2. The search, seizure and arrest were illegal because there was no authority for the search or seizure.
3. The search and seizure were illegal because the defendant was not under legal arrest prior to the search, nor did the defendant commit any criminal offense in the presence of the executing officers as would justify his arrest.
4. The search was that of a general search and inquisition.
5. The search and seizure were illegal because there was no probable cause for the search and seizure.

6. The search and seizure were illegal because there was no evidence of any prior specifically-descriptive information of established credibility and no possible situation of adequate suspicion and exigency existing to warrant arrest without a warrant.

7. The search and seizure were illegal because they were purportedly done incidental to an illegal arrest.

8. The affidavit submitted to the issuing Magistrate/Judge was improperly and illegally executed.

9. The warrant was illegally issued because it does not show probable and sufficient cause to justify the issuance of the warrant.

10. The seizure was illegal in that it was too broad and not in conformity with the directions of the issuing Magistrate/Judge insofar as the items to be seized and searched for were concerned.

11. The information contained in the affidavit constitutes false and fictitious swearing.

12. The defendant was not under legal arrest prior to the search, nor did the defendant commit any criminal offense in the presence of the executing officers as would justify his arrest.

13. The Magistrate/Judge incorrectly found probable cause.

14. The affidavit on which the search warrant was issued was insufficient as a matter of law.

15. The affidavit upon which the search warrant was issued fails to contain a sufficient statement detailing the manner in which the information set forth therein was obtained.

16. The affidavit and warrant failed to allege sufficient facts and information to support the belief and probable cause that the property sought to be seized was on the premises.

17. The search and seizure violate the defendant's constitutional rights. The defendant has reasonable grounds to believe that the evidence referred to will be used as evidence against him at trial.

18. The search warrant is defective in that there is no evidence offered in affidavit form of probable cause for any issuance of said search warrant.

19. The search warrant is defective in that any and all evidence which might presumably have been offered as a basis for the warrant would have consisted entirely of the "poisonous fruits" of the illegal search, seizure and arrest.

20. The search warrant is defective in that any statement by an informant was insufficient to enable the Magistrate/Judge to form an unbiased and impartial decision without further information as to the informant's reliability and the alleged facts reported by the informer.

21. The search and seizure were illegal in that any statement by an informant was insufficient to enable the Magistrate/Judge to form an unbiased and impartial decision without further information as to the informant's reliability and the alleged facts reported by the informer.

22. The entire search, seizure and arrest were illegal in that the fruits of an illegal search cannot be made the foundation upon which a search warrant is obtained, and the fruits of an illegal search warrant cannot be made the foundation upon which the same arrest is made. This is an illegal and unconstitutional foundation for the prosecution of the defendant and in violation of his constitutional rights.

WHEREFORE, for the reasons set forth in this motion and as may be further shown to this Honorable Court at a hearing on this motion, defendant respectfully requests:

- a. That a pretrial hearing be held in this matter;
- b. That all evidence, both tangible and intangible, real and personal, and all statements or admissions by defendant, seized or obtained as a result of the arrest and subsequent searches be excluded;
- c. That the State be prohibited from introducing in evidence any evidence or statements seized or obtained as a result of the illegal arrest or seizures or searches described herein;
- d. That the State release all non-contraband items to defendant; and
- e. That Defendant be accorded such other relief, legal and equitable, as this Court deems mete and proper.

EZELL & CHANCEY, LLP

By: 

Laurel W. Farrar

Attorneys for Defendant

1200 8th Avenue

P. O. Drawer 2500

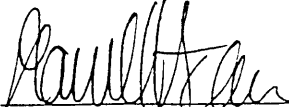
Phenix City, AL 36868-2500

(334) 297-2400

Attorney Code FAR-036

CERTIFICATE OF SERVICE

I hereby certify that I am attorney for the defendant and that I have served a copy of the within and foregoing motion upon the District Attorney of Russell County, Alabama, by placing a copy thereof in a receptacle held in his name in the Office of the Clerk of this Court, this 13th day of June, 2002.



Laurel W. Farrar

000049

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,CRIMINAL CASE NUMBER
CC-02-186-188

vs.

JERRY E. WHITLEY,
Defendant.**MOTION FOR APPROVAL OF EXTRAORDINARY EXPENSES**
PURSUANT TO MAY v. STATE

Comes now the defendant in the above-stated matter, by and through his attorney, Laurel W. Farrar, and requests the Court to approve in advance the reimbursement of expenses for an independent expert witness to perform an independent laboratory analysis of the substance alleged in the indictment to be methamphetamine. Additionally, defendant would request in advance that his attorney be reimbursed for her expenses relating to procuring said expert witness. In support of said request, defendant respectfully shows the Court as follows:


1. Laurel W. Farrar was appointed by the Court to represent the defendant in this matter.
2. The Alabama Court of Criminal Appeals held in *May v. State* that "expenses reasonably incurred" are reimbursable under Code of Alabama 1975, §15-12-21. Under *Ex Parte Barksdale*, 680 So.2d 1029 (1996), such expenses must be approved by the Trial Court prior to being incurred.
3. A separate motion entitled "Motion to Permit Independent Laboratory Analysis" has been filed contemporaneously with the instant motion.
4. At this time, the attorney for the defendant has only a rough estimate of the costs projected to be expended for analysis and expert witness fees and would ask the Court to pre-approve costs in an amount capped at \$2,000.00

WHEREFORE, defendant moves this Court to approve payment of expenses as requested herein.

000030

EZELL & CHANCEY, LLP

By:


Laurel W. Farrar

Attorneys for Defendant

1200 8th Avenue

P. O. Drawer 2500

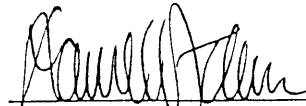
Phenix City, AL 36868-2500

(334) 297-2400

Attorney Code FAR-036

CERTIFICATE OF SERVICE

I hereby certify that I am attorney for the defendant and that I have served a copy of the within and foregoing motion upon the District Attorney of Russell County, Alabama, by placing a copy thereof in a receptacle held in his name in the Office of the Clerk of this Court, this 13th day of June, 2002.


Laurel W. Farrar

000001

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,CRIMINAL CASE NUMBER
CC-02-186-188

vs.

JERRY E. WHITLEY,
Defendant.MOTION TO PERMIT INDEPENDENT ANALYSIS

Comes now the defendant, by and through his attorney, and moves the Court that a laboratory expert employed by defendant be permitted to examine the material evidence against him and to verify the tests that have been performed to determine the alleged identity of the substance(s) involved in the indictment as being methamphetamine. As grounds, defendant would show that the tests routinely performed at the Alabama State Crime Laboratory are non-specific and carry a high potential for error. Defendant offers to prove the foregoing and the qualifications of the expert witness.

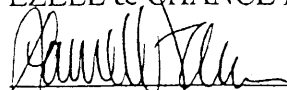
Defendant is entitled to a laboratory analysis pursuant to *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1963), as interpreted in *Barnard v. Henderson*, 514 F.2d 744 (5th Cir. 1974); *Williams v. Dutton*, 400 F.2d 797 (5th Cir. 1968). The right is now undisputed in Alabama. The defendant will be deprived of due process of law as guaranteed by Article I, Section VI, of the Constitution of the State of Alabama and the "due process" clause of the Fifth Amendment of the United States Constitution as made applicable to the states through the Fourteenth Amendment of the United States constitution, and will effectively be prevented from having witnesses testify in his behalf in violation of the Sixth Amendment of the United States Constitution made applicable to the States through the Fourteenth Amendment of the United States Constitution, if he is denied the right to have the substance analyzed by an independent scientific expert. This is true for the reason that the failure to permit the defendant to have a scientific examination and analysis will deprive him of evidence and perhaps witnesses which may be beneficial to him and essential if the jury is to have an accurate understanding of the facts involved in connection with the indictment.

The Alabama State Crime Lab, where the materials are kept and the tests were performed, will not permit the analysis requested without the permission of the prosecution or a court Order.

WHEREFORE, defendant prays that this Court issue an Order permitting the expert to examine a sufficient amount of the substance referred to in the indictment so as to determine its true composition and the nature of the substance, and that the Court order the District Attorney and employees of the Alabama State Crime Laboratory to turn over to the expert a sufficient amount of the substance referred to in the indictment in order to enable the designated expert to analyze the composition and contents of the substance.

EZELL & GHANCEY, LLP

By:



Laurel W. Farrar

Attorneys for Defendant

1200 8th Avenue

P. O. Drawer 2500

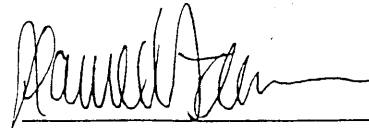
Phenix City, AL 36868-2500

(334) 297-2400

Attorney Code FAR-036

CERTIFICATE OF SERVICE

I hereby certify that I am attorney for the defendant and that I have served a copy of the within and foregoing Request for Discovery upon the District Attorney of Russell County, Alabama, by placing a copy thereof in a receptacle held in his name in the Office of the Clerk of this Court, this 13th day of June, 2002.

A handwritten signature in black ink, appearing to read "Laurel W. Farrar", written over a horizontal line.

Laurel W. Farrar

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

STATE OF ALABAMA,)	CRIMINAL CASE NUMBER
Plaintiff,)	CC-02-186-188
)	
vs.)	
)	
JERRY E. WHITLEY,)	
Defendant.)	

MOTION TO EXCLUDE LABORATORY REPORT

Comes now the defendant, by and through his attorney, and moves the Court for an order excluding from evidence at the trial of the captioned cases the report of the Alabama State Crime Laboratory, and respectfully shows the Court as follows:

1. The defendant's attorney received the said lab report on June 17, 2002, only two days prior to the docket call.
2. The lab report contains results of the analysis of substances seized during an illegal search of the defendant's home and illegal arrest of the defendant.
3. Said seized substances were the poisonous fruits of the illegal search warrant, search and arrest and should be excluded from evidence.
4. Defendant's attorney has filed a Motion to Suppress Arrest and Evidence and Search Warrant.
5. In the event the Court finds that the lab report and related expert testimony are admissible and not the fruits of an unlawful search, seizure and/or arrest, the Court should exclude said report and testimony pending further analysis in accordance with defendant's Motion to Permit Independent Analysis and defendant's Motion for Further Analysis of Alleged Controlled Substance.

WHEREFORE, defendant prays that the said laboratory report and any related expert testimony be excluded from evidence in the above-stated case.

EZELL & CHANCEY, LLP

By: 

Laurel W. Farrar

Attorneys for Defendant

1200 8th Avenue

P. O. Drawer 2500

Phenix City, AL 36868-2500

(334) 297-2400

Attorney Code FAR-036

CERTIFICATE OF SERVICE


I hereby certify that I am attorney for the defendant and that I have served a copy of the within and foregoing motion upon:

District Attorney of Russell County, Alabama

Hon. Joel Collins
Attorney for Caylene White

Hon. Jerry Armstrong
Attorney for Wayne Meadows

by facsimile transmission and by placing same in their respective receptacles located in the Russell County Courthouse in Phenix City, Alabama, this 19th day of June, 2002.



Attorney for Defendant

ORIGINAL

000057

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

vs.

JERRY E. WHITLEY,
Defendant.)
)
)
)
)
)
)CRIMINAL CASE NUMBER
CC-02-186-188**MOTION FOR FURTHER ANALYSIS OF
ALLEGED CONTROLLED SUBSTANCE**

Comes now the defendant, by and through his attorney, and moves the Court for an order that the alleged controlled substance seized in the above-styled case be further analyzed, first by the Alabama Department of Forensic Sciences and next by an independent laboratory expert employed by the defendant in order to determine the exact proportion and makeup of the substances found in the containers allegedly containing methamphetamine and other substances.


In support of this motion, defendant relies on *Ex parte Fletcher*, 718 So.2d 1132 (Ala. 1998), in which the Supreme Court stated that where illegal drugs are easily distinguished from and easily separated from legal substances, only the weight of the illegal drugs should be counted. In *Fletcher*, solid pieces of bar soap which were found in a bag with a solid piece of cocaine were not contained in a mixture with cocaine and thus could not be counted toward the 28-gram requirement of a defense of trafficking in cocaine. Therefore, further analysis needs to be done in the instant case to determine the proportion of alleged methamphetamine to other substances and the proportion of water or any other separable liquid in order to get an accurate measurement of the amount necessary to determine how the statute is applied for sentencing if the defendant should be found guilty.

000058

WHEREFORE, the premises considered, the defendant prays that this Court order further analysis of the alleged controlled substances and a report of the weight in grams of each component contained in each of the containers seized.

EZELL & CHANCEY, LLP

By:



Laurel W. Farrah

Attorneys for Defendant

1200 8th Avenue

P. O. Drawer 2500

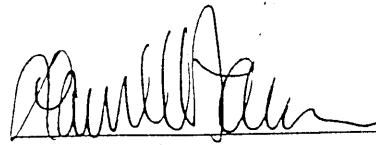
Phenix City, AL 36868-2500

(334) 297-2400

Attorney Code FAR-036

CERTIFICATE OF SERVICE

I hereby certify that I am attorney for the defendant and that I have served a copy of the within and foregoing motion upon the District Attorney of Russell County, Alabama, by placing a copy thereof in a receptacle held in his name in the Office of the Clerk of this Court, this 18th day of June, 2002.



Laurel W. Farrar

STATE OF ALABAMA

PLAINTIFF,

VS.

JERRY E. WHITLEY

DEFENDANT.

IN THE CIRCUIT COURT OF

RUSSELL COUNTY, ALABAMA,

CASE NO.: CC 02-186-188

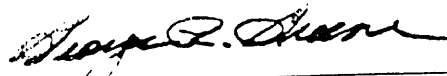
ORDER

The defendant having filed a motion for approval of extraordinary expenses and the court having held a hearing and considered evidence presented, it is therefore ORDERED that the motion for approval of extraordinary expenses is denied.

DONE this the 21st day of June, 2002

FILED IN OFFICE

2002 JUN 21 PM 3:23

CIRCUIT/DIST. COURT
RUSSELL CO., AL

JUDGE, CIRCUIT COURT

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,CRIMINAL CASE NUMBER
CC-02-186-188

vs.

JERRY E. WHITLEY,
Defendant.**MOTION FOR RECONSIDERATION OF DEFENDANT'S
MOTION FOR APPROVAL OF EXTRAORDINARY
EXPENSES PURSUANT TO *MAY v. STATE***FILED IN OFFICE
2002 JUN 21 AM 11:09
JULIUS/01ST. COURT
RUSSELL CO., AL

Comes now the defendant in the above-stated matter, by and through his attorney, Laurel W. Farrar, and requests that the Court reconsider its denial of defendant's motion for approval of extraordinary expenses pursuant to *May v. State* filed herein on June 13, 2002, which requested approval in advance of reimbursement of expenses for an independent expert witness to perform an independent laboratory analysis of the substance alleged in the indictment in this case to be methamphetamine.

Said motion was denied after hearing on June 20, 2002, at which was raised the issue that defendant was out on bond. Defendant would request that another hearing be set and that the Court allow him to show the following:

1. Defendant is without funds to make advance payment to an independent laboratory for an analysis of the seized substance which is now located at the Alabama Department of Forensic Sciences.
2. Defendant is indigent and currently unemployed.
3. Defendant's family members actually assisted him in making bond, and they are without the funds necessary to hire an independent laboratory expert.
4. Further analysis is necessary in order to properly defend this case, and it would be a violation of the defendant's constitutional rights if he is unable to afford the assistance of an expert witness which is required for the proper defense of his case.

WHEREFORE, defendant moves this Court to reconsider its denial of defendant's said motion as requested herein.

6/25/02 - Motion denied
Petitioner has failed to show the needed
cost of for analyses and also failed to
show to what the time needed to complete analysis.

Respectfully submitted,

EZELL & CHANCEY, LLP

By:



Laurel W. Farrar

Attorneys for Defendant

1200 8th Avenue

P. O. Drawer 2500

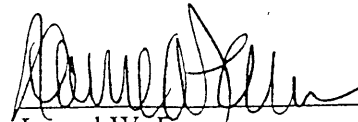
Phenix City, AL 36868-2500

(334) 297-2400

Attorney Code FAR-036

CERTIFICATE OF SERVICE

I hereby certify that I am attorney for the defendant and that I have served a copy of the within and foregoing motion upon the District Attorney of Russell County, Alabama, by placing a copy thereof in a receptacle held in his name in the Office of the Clerk of this Court, this 21st day of June, 2002.



Laurel W. Farrar

STATE OF ALABAMA

PLAINTIFF,

VS.

JERRY E. WHITLEY

DEFENDANT.

)
)
)
)
)
)
)
)
)
)

IN THE CIRCUIT COURT OF

RUSSELL COUNTY, ALABAMA.

CASE NO.: CC 02-186-188

ORDER

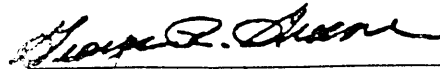
The defendant having filed a motion for reconsideration of defendant's motion for approval of extraordinary expenses and the court having reviewed and considered same, it is ORDERED that the Motion is denied. Defendant has failed to show the needed cost for analysis and also failed to show to court the time needed to complete analysis.

DONE this the 25th day of June 2002.

FILED IN OFFICE

2002 JUN 25 PM 2:04

CIRCUIT COURT
RUSSELL CO., AL



JUDGE, CIRCUIT COURT

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

vs.

JERRY E. WHITLEY,
Defendant.CRIMINAL CASE NUMBER
CC-02-186-188FILED IN OFFICE
2002 JUL 29 AM 9:28
CLERK OF COURT
RUSSELL COUNTY, ALA.**SUPPLEMENTAL INFORMATION IN SUPPORT OF DEFENDANT'S
MOTION FOR RECONSIDERATION OF DEFENDANT'S
MOTION FOR APPROVAL OF EXTRAORDINARY
EXPENSES PURSUANT TO *MAY v. STATE***

Comes now the defendant in the above-stated matter, by and through his attorney, Laurel W. Farrar, and pursuant to the Court's request, submits the following supplemental information in support of his motion for approval of extraordinary expenses pursuant to *May v. State* filed herein on June 13, 2002, which requested approval in advance of reimbursement of expenses for an independent expert witness to perform an independent laboratory analysis of the substance alleged in the indictment in this case to be methamphetamine.

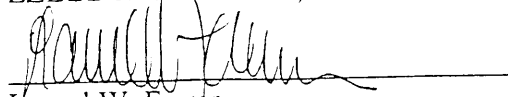
1. Dr. John Hiatt of Quest Laboratories in Las Vegas, Nevada, has consented to perform the requested independent analyses.
2. The two specific samples in question are listed as No. 9 and No. 15 on the Certificate of Analysis dated 9/21/01, result analysis date 6/11/02.
3. Dr. Hiatt has advised that he will need samples for qualitative analyses of the mixture alleged to contain methamphetamine. This would require that the Alabama Department of Forensic Sciences submit one small representative sample each of Nos. 9 and 15 with either (a) the entire substance shaken up and made to be homogenous, or (b) a sample of the powder portion at the bottom plus a sample of the liquid portion on top.
4. The time required for this analysis will be will be two weeks from Dr. Hiatt's receipt of the samples, and the cost will be approximately \$1,000.00, plus shipping fees.

WHEREFORE, defendant moves this Court to issue an order allowing the independent expert analysis as requested by defendant, and that the Court approve payment of the cost thereof.

Respectfully submitted,

EZELL & CHANCEY, LLP

By:



Laurel W. Farrar

Attorneys for Defendant

1200 8th Avenue

P. O. Drawer 2500

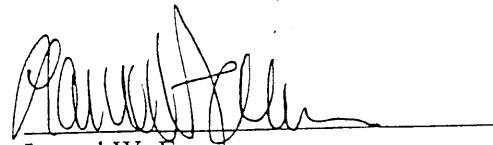
Phenix City, AL 36868-2500

(334) 297-2400

Attorney Code FAR-036

CERTIFICATE OF SERVICE

I hereby certify that I am attorney for the defendant and that I have served a copy of the within and foregoing supplemental information upon the District Attorney of Russell County, Alabama, by placing a copy thereof in a receptacle held in his name in the Office of the Clerk of this Court, this 29th day of July, 2002.


Laurel W. Farrar

000066

STATE OF ALABAMA

PLAINTIFF,

VS.

Gerry Eugene Whitley

DEFENDANT.

IN THE CIRCUIT COURT OF

RUSSELL COUNTY, ALABAMA

CASE NO.: CC 02-186, 187, 188

ORDER

This matter coming before the Court for call of the criminal trial docket on July 29, 2002. It is therefore,

ORDERED, ADJUDGED AND DECREED:

Upon failure of the defendant to appear in Court on this date, an alias writ and preliminary forfeiture is **ORDERED**.

✓ Upon request/motion made in open court this matter is continued to trial docket set for Sept. 16, 2002.

Plea deadline is extended to _____, 2002 at 10:00 A.M.

Docket call is set for September 4, 2002 at 10:00 A.M.

✓ Motion to consolidate is ☒ granted ☐ denied.

✓ Hearing on Motion to suppress is set for 8-26-02 at 2:00 PM

Hearing on Motion to consolidate is set for _____.

Case is transferred to District Court/Municipal Court for disposition.

Defendant remanded to custody of Sheriff and shall make a new bond in the amount of _____.

✓ Motion for ext. expenses is granted

DONE this the 29th day of July 2002.

[Signature]
JUDGE, CIRCUIT COURT

FILED IN OFFICE

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

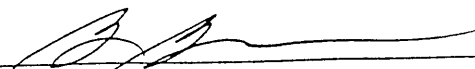
vs.

JERRY E. WHITLEY,
Defendant.)
)
)
)
)
)
)CRIMINAL CASE NUMBER
CC-02-186**ORDER APPROVING EXTRAORDINARY EXPENSES**

The above-named defendant, by and through his attorney, having on July 29, 2002, submitted supplemental information in support of Defendant's Motion for Approval of Extraordinary Expenses, and the defendant having provided information to the Court that a laboratory in Las Vegas, Nevada, will perform an independent analysis of two specific samples of alleged controlled substances, the Court finds that defendant's said motion is due to be granted.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that Laurel W. Farrar, attorney for the defendant, is authorized to charge to the State of Alabama at the conclusion of this case the cost of said independent laboratory analysis of the alleged controlled substance and any associated shipping fees up to the amount of \$1,200.00.

SO ORDERED, this 7 day of Aug, 2002.



Honorable George R. Greene
Judge, Russell County Circuit Court

FILED IN OFFICE
2002 AUG -7 PM 1:26
CLERK OF COURT

000068

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

vs.

JERRY E. WHITLEY,
Defendant.CRIMINAL CASE NUMBER
CC-02-186FILED IN OFFICE
JUL 19 2005
PM 2:40**ORDER FOR TRANSPORT OF SAMPLES FOR INDEPENDENT ANALYSIS**

The above-named defendant, by and through his attorney, having submitted a motion for independent analysis of alleged controlled substance, the Court finds that defendant's said motion is due to be granted.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED as follows:

1. The above-styled case is hereby continued to the docket call of September 4, 2002.
2. That the Alabama Department of Forensic Sciences immediately procure from two specific samples listed as No. 9 and No. 15 on the Certificate of Analysis dated 9/21/01, Result Analyses date 6/11/02, samples sufficient for qualitative analysis of the seized mixture alleged to contain methamphetamine. Such samples should be submitted as either the entire substance shaken up and made to be homogenous, and then a representative sample removed therefrom, OR a sample of the powder portion at the bottom plus a sample of the liquid portion on top and labeled appropriately as such. Said samples from Nos. 9 and 15 should be appropriately packaged and shipped, and delivered no later than August 12, 2002, to the attention of Dr. John Hiatt, American Medical Laboratories, Quest Diagnostics, 4230 Burnham Avenue, Suite 250, Las Vegas, Nevada 89119, after communicating with Dr. Hiatt at telephone number


000069

702-733-7866, Extension 3468, or fax number 702-733-0318, to determine the requirements for samples and packaging.

3. That Dr. Hiatt furnish laboratory results to both parties immediately upon completion of the analysis.

4. This Court's separate order entitled Order Approving Extraordinary Expenses for the cost of the independent laboratory expenses has been issued this date.

DONE AND ORDERED, this 7 day of Aug, 2002.



Honorable George R. Greene
Judge, Russell County Circuit Court

STATE OF ALABAMA

VS.

JERRY E. WHITLEY

*
*
*
*
*

IN THE CIRCUIT COURT OF

RUSSELL COUNTY, ALABAMA

CASE NO. CC-02-186

MOTION TO AMEND ORDER

Comes now the State of Alabama by and through its District Attorney for the 26th Judicial Circuit, Kenneth Davis, and moves this Honorable Court to amend the "Order for Transport of Samples" issued by this Court and as grounds therefore shows as follows:

1 - The undersigned received the Order on August 15, 2002.

2 - On August 15, 2002 the undersigned contacted Sherwin Boswell, head of the Auburn Lab of the Department of Forensic Sciences to make the necessary arrangements.

3 - Sherwin Boswell informed the undersigned that **Sample #9** referred in the Order contains a mixture which includes **ether**.

4 - Boswell further stated that the United States Postal Service does not allow the shipment of ether or any mixture containing ether via mail without subjecting the sender to severe financial penalties if the ether is spilled or otherwise released.

5 - Boswell further stated that based upon his past experience that neither American Express nor United Parcel Service will ship ether or a mixture containing ether.

6 - In fact all ether required by the Auburn Lab for its work must be delivered by special courier.

7 - In light of the foregoing the State moves this Court to amend its order so as not to require the shipment of Sample #9.

8 - In the alternative the State asks that the Court either (1) require the Defendant to use a licensed courier service to deliver the sample to Las Vegas or (2) post a cash bond in the amount of \$50,000.00 to cover any financial penalties which might be incurred by the Alabama Department of Forensic Sciences as a consequence of mailing the sample.

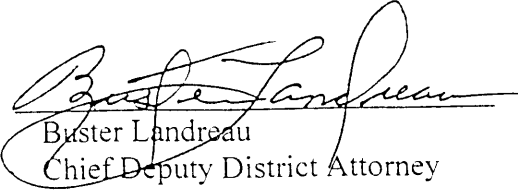
10/9/02 - upon arrangement of
shipping ether samples by Defense Counsel.
said requested samples are to be turned
over to Defense Counsel to ship for
analysis

000071

Respectfully submitted,

KENNETH DAVIS
DISTRICT ATTORNEY
26TH JUDICIAL CIRCUIT

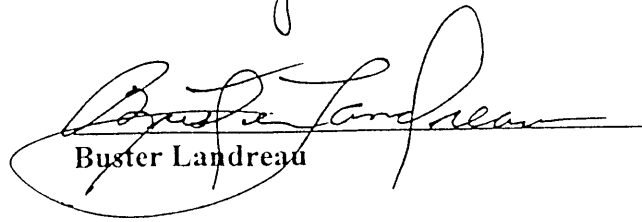
BY:


Buster Landreau
Chief Deputy District Attorney
LAN 034

CERTIFICATE OF SERVICE

I hereby certified that I have served a copy of the foregoing upon the Attorney for Defendant by placing a copy in her box in the Clerk's Office.

This 15th Day of August, 2002


Buster Landreau

000072

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,CRIMINAL CASE NUMBER
CC-02-186-188

vs.

JERRY E. WHITLEY,
Defendant.**OBJECTION TO MOTION TO AMEND ORDER**

Comes now the defendant, by and through his attorney of record, and objects to the State's Motion to Amend Order filed herein on August 15, 2002, and as grounds therefor, respectfully shows unto the Court as follows:

1. Defendant's attorney has made telephone calls to determine how the liquid material should be shipped, including telephone calls to the DEA, the Department of Transportation, United Parcel Service and the United States Postal Service.
2. The Department of Transportation advised defendant's attorney that if the mixture containing ether is properly packaged and marked as a hazardous material, it can be shipped by ground or air carriers which allow such materials to be shipped.
3. The United States Postal Service will not ship hazardous materials, but the DEA advised defendant's attorney that their agency has been mailing alleged controlled substances to an independent laboratory in Texas from Montgomery, double-boxing the material, via the United States Postal Service. They also stated that they have used Airborne Express in the past and that Airborne Express is not averse to this.
4. It is the understanding of defendant's attorney that Federal Express, Airborne Express and United Parcel Service do allow the shipment of hazardous materials if the material is properly marked as such, sealed in a container and double-boxed. See Exhibit "A" hereto, a

highlighted portion of the FedEx USA Airbill ("Does this shipment contain dangerous goods?") with options of "No," "Yes," "As per attached shipper's declaration," or "Yes, shipper's declaration not required." The undersigned attorney understands that a shipper's declaration is either required or not by the Department of Transportation, depending on their categorization of those items termed dangerous goods or hazardous materials.

5. It would be unnecessarily prohibitively expensive to have a special courier service to deliver a small sample to Las Vegas, Nevada, as it would be for defendant to post a cash bond of \$50,000.00 to cover any financial penalties that might be incurred by the Alabama Department of Forensic Sciences. It should be the burden of the Alabama Department of Forensic Sciences to properly package and mark the sample so that the shipment will be entirely safe, legal and in compliance with regulations of whatever carrier is selected.

6. To permit an analysis of one sample and not the other would be unfair to the defendant and contrary to the underlying purpose of the independent analysis and would defeat the purpose for which the Court's Order was issued.

WHEREFORE, the premises considered, defendant objects to the State's motion to amend this Court's order.

EZELL & CHANCEY, LLP

By: 

Laurel W. Farrar

Attorneys for Defendant

1200 8th Avenue

P. O. Drawer 2500

Phenix City, AL 36868-2500

(334) 297-2400

Attorney Code FAR-036

000074

MUR23
0215

4a Express Package Service
☐ FedEx Priority Overnight ☐ FedEx Standard Overnight ☐ FedEx First Overnight
Next business morning Next business afternoon Delivery by next business day

4b Express Freight Service
☐ FedEx 2Day ☐ FedEx Express Saver
Second business day Third business day

5 Packaging
☐ FedEx Envelope* ☐ FedEx Pak* ☐ Other
* Call for Confirmation

6 Special Handling
☐ SATURDAY Delivery ☐ HOLD Weekday ☐ HOLD Saturday
at FedEx Location at FedEx Location

7 Payment Bill to:
☐ Sender ☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check
Account No. in Section 1 of bill is required

8 Release Signature
 Sign to authorize delivery without obtaining signature
 Your liability is limited to \$100 unless you declare a higher value. See back for details.

Total Packages **Total Weight** **Total Declared Value**
 \$ 00
 FedEx Decl No. Date
 Credit Card No.

9 Release Signature
 Sign to authorize delivery without obtaining signature
 Your liability is limited to \$100 unless you declare a higher value. See back for details.

10 Release Signature
 Sign to authorize delivery without obtaining signature
 Your liability is limited to \$100 unless you declare a higher value. See back for details.

11 Release Signature
 Sign to authorize delivery without obtaining signature
 Your liability is limited to \$100 unless you declare a higher value. See back for details.

12 Release Signature
 Sign to authorize delivery without obtaining signature
 Your liability is limited to \$100 unless you declare a higher value. See back for details.

13 Release Signature
 Sign to authorize delivery without obtaining signature
 Your liability is limited to \$100 unless you declare a higher value. See back for details.

FedEx USA Airbill
 Express
 Tracking Number 833188549180

1 From Please print and postmark
 Date 1343-4481-4
 Sender's FedEx Account Number

2 Your Internal Billing Reference
 Address 1200 BTH AVE
 City PHENIX CITY State AL ZIP 36067

3 To
 Recipient's Name
 Company
 Address
 City
 State
 ZIP
 Phone ()

4 Address
 To: HOLIDAY at FedEx location, print FedEx address
 Address
 City
 State
 ZIP

5 Address
 To: HOLIDAY at FedEx location, print FedEx address
 Address
 City
 State
 ZIP

6 Address
 To: HOLIDAY at FedEx location, print FedEx address
 Address
 City
 State
 ZIP

7 Address
 To: HOLIDAY at FedEx location, print FedEx address
 Address
 City
 State
 ZIP

8 Address
 To: HOLIDAY at FedEx location, print FedEx address
 Address
 City
 State
 ZIP

9 Address
 To: HOLIDAY at FedEx location, print FedEx address
 Address
 City
 State
 ZIP

10 Address
 To: HOLIDAY at FedEx location, print FedEx address
 Address
 City
 State
 ZIP

11 Address
 To: HOLIDAY at FedEx location, print FedEx address
 Address
 City
 State
 ZIP

12 Address
 To: HOLIDAY at FedEx location, print FedEx address
 Address
 City
 State
 ZIP

TRY online shipping at fedex.com

By using this Airbill you agree to the service conditions on the back of this Airbill and in our current Service Guide, including terms that limit our liability.

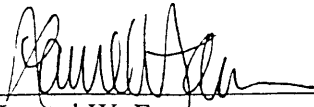
Questions? Visit our Web site at fedex.com or call 1 800 Go FedEx® 800 463 3339.

EXHIBIT
"A"

000075

CERTIFICATE OF SERVICE

I hereby certify that I am attorney for the defendant and that I have served a copy of the within and foregoing motion upon the District Attorney of Russell County, Alabama, by placing a copy thereof in a receptacle held in his name in the Office of the Clerk of this Court, this 16th day of August, 2002.



Laurel W. Farvar

STATE OF ALABAMA

PLAINTIFF,

VS.

Jerry Whitley

DEFENDANT.

) IN THE CIRCUIT COURT OF

) RUSSELL COUNTY, ALABAMA,

) CASE NO.: CC 02-186-188

ORDER

This matter coming before the Court for call of the criminal trial docket on June 19, 2002. It is therefore,

ORDERED, ADJUDGED AND DECREED:

Upon failure of the defendant to appear in Court on this date, an alias writ and preliminary forfeiture is **ORDERED**.

Upon request/motion made in open court this matter is continued to trial docket set for August 5, 2002.

Plea deadline is extended to July 29, 2002 at 10:00 A.M.

Docket call is set for July 29, 2002 at 10:00 A.M.

✓ Motion to consolidate is ✓ granted denied.

Hearing on Motion to suppress is set for .

Hearing on Motion to consolidate is set for .

Case is transferred to District Court/Municipal Court for disposition.

Defendant remanded to custody of Sheriff and shall make a new bond in the amount of .

FILED IN OFFICE
2002 AUG 20 PM 3:23
CLERK OF DISTRICT COURT
RUSSELL COUNTY, ALABAMA

DONE this the 29th day of July 2002.

James E. Chism

JUDGE, CIRCUIT COURT

August 23, 2002

Laurel Farrar
Attorney at Law
P.O. Drawer 2500
Phenix City, Al 36868-2500

Re: Jerry Whitley
CC-02-186,187,188

Dear Laurel:

This is in response to your letter dated August 22, 2002 and to confirm our telephone conversation of this date. As I stated in our phone conversation I was willing not to seek the firearm enhancement in the event of a plea of guilty by Whitley. However it seems evident at this time that Whitley desires a trial therefore I will seek the firearm enhancement and have filed the notice thereof this date.

On other matters I talked with Sherwin Boswell this date. I had faxed to him your pleading wherein you stated UPS and Federal Express would ship a sample containing ether. Sherwin told me that they would not ship ether to the ADFS Lab (courier had to be used) but that he would check with them again and if they would accept the shipment he would send it to your expert.

In our phone conversation you stated that Airborne Express might ship it if the other two would not. Since this was not in your motion I asked you to call Sherwin and advise him of that fact.

Sincerely

Buster Landreau
Chief Deputy District Attorney

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,CRIMINAL CASE NUMBER
CC-02-186, 187, 188

vs.

JERRY E. WHITLEY,
Defendant.MOTION TO TRANSPORT

Comes now the defendant in the above-styled cause, by and through his attorney of record, and would request that this Honorable Court order that STEVEN MOSSESON, an inmate of the Lee County Jail, be transported to Phenix City, Alabama, in order to testify in the suppression hearing in the above-styled case scheduled for 2:00 p.m., EDT, on August 26, 2002.

In support of said motion, defendant would show that a subpoena request form was filed, on Friday, August 23, 2002, and a subpoena was produced by the Clerk. The defendant's attorney delivered the subpoena to the Russell County Sheriff's Department, but later learned that the above-named individual was not incarcerated at the Russell County Jail but had been transported to the Lee County Jail to face cases there. The said Steven Mosseson is a witness to the facts, circumstances and/or occurrences leading up to the arrest of the defendant, and it is anticipated that his testimony at the suppression hearing is necessary in order to rebut the evidence presented by the State of Alabama.

WHEREFORE, the premises considered, the defendant requests that the Court to order that a Russell County Deputy Sheriff transport the witness, Steven Mosseson, from the Lee County Jail to the Russell County Courthouse in Phenix City, Alabama, to testify at the suppression hearing on August 26, 2002, at 2:00 p.m., EDT, in Courtroom No. 1.

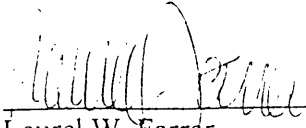
EZELL & CHANCEY, LLP

By: 

Laurel W. Farrar
Attorneys for Defendant
1200 8th Avenue
P. O. Drawer 2500
Phenix City, AL 36868-2500
(334) 297-2400
Attorney Code FAR-036

CERTIFICATE OF SERVICE

I hereby certify that I am attorney for the defendant and that I have served a copy of the within and foregoing Motion to Transport upon the District Attorney of Russell County, Alabama, by placing a copy thereof in a receptacle held in his name in the Office of the Clerk of this Court, this 23rd day of August, 2002.


Laurel W. Farrar

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

STATE OF ALABAMA,
Plaintiff,

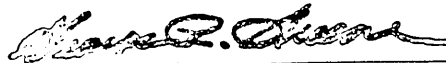
vs.

JERRY E. WHITLEY,
Defendant.)
)
)
)
)
)
)CRIMINAL CASE NUMBER
CC-02-186, 187, 188ORDER MOTION TO TRANSPORT

Defendant's attorney having submitted defendant's motion to transport Lee County Jail inmate Steven Mosseson to Phenix City, Alabama, to testify at the suppression hearing in the captioned case, it is the opinion of the Court that said motion is due to be granted. Therefore,

IT IS ORDERED, ADJUDGED AND DECREED that the Russell County Sheriff's Office transport Steven Mosseson from the Lee County Jail to appear in Courtroom No. 1 at 2:00 p.m., EDT, on August 26, 2002.

SO ORDERED, this 23rd day of August, 2002.



Honorable George R. Greene
Judge, Russell County Circuit Court

FILED IN OFFICE
2002 AUG 23 PM 3:30
RUSSELL COUNTY
JULY 21 2002